

**PROGRAMMATIC AGREEMENT
BETWEEN
THE TOWN OF MANCHESTER, CONNECTICUT
and
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
for the
ADMINISTRATION OF THE HOUSING REHABILITATION PROGRAM**

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) has awarded a grant to the Town of Manchester ("Town") under the Community Development Block Grant Program ("Program"); and

WHEREAS, pursuant to the **Multifamily Housing property Disposition Reform Act of 1994**, HUD has delegated responsibility for compliance with the requirements of Section 106 of the National Historic Preservation Act to the grant recipient; and

WHEREAS, the Town has determined that the implementation of the Program may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places ("National Register") pursuant to Section 800.13 of the regulations, 36 CFR Part 800, implementing Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f; and

NOW THEREFORE, the Town, the Connecticut SHPO, and the Council agree that the Program shall be administered in accordance with the following stipulations to satisfy the grant recipient's Section 106 responsibilities for all individual undertakings of the Program.

STIPULATIONS:

The Town will ensure that the following measures are carried out:

I. EXEMPT ACTIVITIES

- A. The Town shall not be required to consult with the Connecticut SHPO or the Council for the following activities which have been determined to have limited potential to affect historic properties.
 1. **Lead based paint abatement and management for properties less than 50 years old.**
 2. Abatement within interior spaces, **unless otherwise agreed to by the Town and Connecticut SHPO.**
 3. Abatement of the rears of historic properties, additions, and outbuildings which do not contribute to the integrity of historic property.
 4. Abatement on vinyl, aluminum, or steel windows.

II. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

- A. Identification of Historic Properties: The Town shall consult with the Connecticut SHPO to identify historic properties within the target areas selected for the Program.
1. The Town shall review (i) the current listing of the National Register; (ii) local or county surveys which have been approved by the Connecticut SHPO; and (iii) State surveys to determine whether properties have been listed or are eligible for listing on the National Register.
 2. The Town shall conduct appropriate surveys of target areas if the Connecticut SHPO determines that surveys are necessary to determine the presence of historic properties.
 - (a) The Town shall consult with the Connecticut SHPO to determine whether a comprehensive survey is required prior to the initiation of Program activities or whether properties within the target area can be identified on a case-by-case basis.
- B. Evaluation of National Register Eligibility: If the Town identifies properties fifty (50) years or older within the target areas which are not included in the National Register or local or county surveys, the Town shall provide the Connecticut SHPO with any pertinent information that it may have regarding the properties to determine whether the properties meet the National Register criteria.
1. The Town shall forward pertinent information to the Connecticut SHPO to allow the SHPO to review the Town's determination of eligibility of a property. The SHPO shall provide any concerns to the Town within thirty (30) days.
 2. If the Town disagrees with the Connecticut SHPO's findings regarding the eligibility of a property, the Town shall request a formal determination of eligibility from the Keeper of the National Register in accordance with 36 CFR Section 800.4(c).
- C. The Town may submit eligibility determinations for properties to the Connecticut SHPO concurrently with project specifications.

III. ABATEMENT PROCEDURES FOR HISTORIC PROPERTIES

- A. The Town shall implement its Program activities proposed for properties listed on the National Register, eligible for listing on the National Register, and which have been determined to meet the National Register criteria in accordance with the three approach outlined in Attachment A.

- B. The Town shall not be required to consult with the Connecticut SHPO for abatement activities limited to Tier I (Retention,/Repair/Maintenance)
 - 1. The Town shall maintain specifications for each property abated in accordance with Tier I to evidence that activities were limited to treatments in this protocol.
 - 2. In the event that activities included in Tier II or Tier III are required to complete lead abatement activities at a historic property, the Town shall adhere to procedures for Tier II or Tier III.
- C. The Town shall submit project specifications for properties which require abatement activities listed in Tier II (Substantial Repair/Replacement) to the Connecticut SHPO for review and comment.
 - 1. The Connecticut SHPO shall notify the Town whether it objects to the proposed method of abatement within 15 days following the receipt of project specifications.
 - 2. If the Connecticut SHPO does not respond within 15 days, the Town may proceed with the abatement following receipt of project specification activities.
- D. The Town shall consult with the Connecticut SHPO during the development of specifications for properties which require abatement activities listed in Tier III.

As part of the consultation process, the Town shall submit background documentation that evaluates the more invasive methods of abatement.

- 1. The Town shall submit background information which includes, but is not limited to:
 - (a) Health Department reports on lead contamination resulting from occupancy of the property.
 - (b) Condition assessments for various historic elements.
 - (c) Alternative treatments considered and the cost estimates for each.
 - (d) Life cycle maintenance costs related to each alternative.
 - (e) Proposed measures to mitigate or minimize adverse effects.
- 2. The Town shall comply with Stipulation IV and execute a Standard Mitigation Measures Agreement with the Connecticut SHPO or obtain Council comments, in accordance with 36 CFR Section 800.6(e) prior to the implementation of abatement activities outlined in Tier III.

IV. RESOLUTION OF ADVERSE EFFECTS

- A. Following review of the background documentation, the Connecticut SHPO shall determine whether it is appropriate to execute a Standard Mitigation Measures Agreement, as outlined in Attachment B, for abatement activities listed in Tier III. The Connecticut SHPO shall advise the Town of its decision within 30 days following receipt of adequate documentation.
- B. When the Connecticut SHPO determines that it is appropriate to execute a Standard Mitigation Measures Agreement, the Agreement shall be signed by both the Town and SHPO and the Town shall adhere to the terms of the Agreement. No further review is required by the Council.
 - 1. The Town shall retain individual project files for each abatement project that required the preparation of a Standard Mitigation Agreement.
- C. If the Town or Connecticut SHPO determine that the Standard Mitigation measures are not appropriate for an abatement project, the Town shall notify the Council and initiate the consultation process set forth in 36 CFR Section 800.6(e).
 - 1. The Town shall submit the background information outlined in Stipulation III. D. (1) and a written explanation from the Connecticut SHPO clarifying why the Standard Mitigation Measures Agreement should not be prepared for the proposed abatement project to the Council for review.
 - 2. (a) Within 15 days following receipt of adequate documentation the Council shall prepare a Memorandum of Agreement for the abatement project and submit the Agreement to the Town for review and approval or notify the Town that it will provide written comments in accordance with 36 CFR Section 800.6(b).
 - (b) If the Town determines that the Agreement is unacceptable, the Town shall recommend modifications that will make it acceptable or request the Council's comments in accordance with 36 CFR Section 800.6(b)

V. REVIEW OF MODIFICATIONS TO APPROVED ACTIVITIES

- A. The Town shall notify the Connecticut SHPO of any modifications to previously approved specifications or Standard Mitigation Measures Agreements reviewed under the terms of this Programmatic Agreement.
 - 1. If the Connecticut SHPO determines that modifications to the original abatement plan are acceptable, the Connecticut SHPO shall notify the Town in writing within 15 days.
 - 2. If the Connecticut SHPO determines that modifications to the original abatement plan should be reviewed in accordance with Tier II or Tier III as outlined in Attachment A, the Town and SHPO shall determine whether it is

appropriate to use a Standard Mitigation Measures Agreement or consult with the Council in accordance with Stipulation IV.C.

VI. PUBLIC INVOLVEMENT

- A. The Town shall meet with residents of designated target areas included in the Program periodically to discuss the effect of abatement activities on the character of the historic district. The residences shall be given at least 14 days notice of such meetings and the meetings shall be held at a time and location that is convenient for residents.
 - 1. The Town can fulfill its public involvement as part of other public meetings and forums which it may be required to conduct for Federally assisted housing rehabilitation programs.
- B. The Town shall notify the Connecticut SHPO of the public interest in any abatement activities covered under the terms of this Programmatic Agreement. Should the public raise an objection pertaining to the abatement of an historic property, the Town and Connecticut SHPO shall take the objection into account, and as appropriate, consult with the objecting party to resolve the objection in accordance with 36 CFR Section 800.5(e)(1).

VII. DISPUTE RESOLUTION

- A. Should the Connecticut SHPO object within the timeframes outlined in this Programmatic Agreement to any specifications or action provided for review pursuant to this Programmatic Agreement, the Town will consult further with the Connecticut SHPO to seek resolution. If the Town determines that the objection cannot be resolved, the Town shall forward all documentation relevant to the dispute to the Council.
 - 1. Within fifteen (15) calendar days after receipt of all pertinent documentation, the Council will provide the Town with recommendations or comment in accordance with 36 CFR Section 800.6(b). The Town will take into account the Council's recommendations or formal comments in reaching a final decision regarding the dispute.
 - 2. Any Council comment provided to the Town in response to such a request will be taken into account by the Town in accordance with 36 CFR Section 800.6(c)(2) with reference to the subject of the dispute. Any recommendation or comment provided by the Council will be interpreted to pertain only to the subject of the dispute, and the responsibility of the Town to carry out all actions under this Agreement that are not the subject of the dispute will remain unchanged.

VIII. ADMINISTRATIVE COORDINATION

- A. The Town shall develop management procedures for the implementation of the terms of this Programmatic Agreement within 30 days following the execution of

the agreement. A copy of the procedures will be submitted to the Connecticut SHPO for approval.

- B. Upon written request from the Town, the Connecticut SHPO shall conduct training workshops to assist the Town employees in understanding the technical requirements of the Programmatic Agreement.

IX. MONITORING

- A. The Town shall document all program activities which involve historic properties and are subject to the terms of this Programmatic Agreement in individual project files or environmental files. Each project file shall include, at a minimum, (i) documentation why one of the exemptions from review is applicable; (ii) comments from the Connecticut SHPO regarding the National Register eligibility of the property; (iii) clarification of which Tier the Town used for lead abatement of the historic property and written comments from the SHPO or a copy of the Standard Mitigation Measures Agreement; (iv) project specifications; and (v) the date of completion of the project. This information shall be available for review by the Connecticut SHPO or Council following reasonable notice.
- B. The Connecticut SHPO shall conduct periodic monitoring visits of project sites to ensure compliance with documents and agreements approved by the SHPO or Council pursuant to this Programmatic Agreement.
- D. The Town shall provide the Connecticut SHPO and Council with an annual report on or before July 31 of each year summarizing activities carried out under the terms of this Programmatic Agreement. The first report will be submitted by the Town on July 31, 2006, and subsequent reports each July thereafter.
 - 1. The Town shall ensure that the annual report is made available for public inspection, that potentially interested members of the public are made aware of its availability, and that interested members of the public are invited to provide comments to the Connecticut SHPO and Council as well as the Town.

X. EFFECTIVE DATE

This Programmatic Agreement shall take effect on the date it is signed by the Town, Connecticut SHPO, and the Council. The Programmatic Agreement will remain in effect until the Town has expended all funds it has received from HUD under the Community Development Block Grant Program in this and subsequent award rounds, unless terminated pursuant to Stipulation XII.

XII. AMENDMENTS

- A. Any party to this Programmatic Agreement may request that it be amended or modified, whereupon the Town, Connecticut SHPO, and Council will consult in accordance with 36 CFR Section 800.13 to consider such revisions.

- B. Any resulting amendments or addenda shall be developed and executed among the Town, Connecticut SHPO, and Council in the same manner as the original Programmatic Agreement.

XII. TERMINATION

Any party to this Programmatic Agreement may terminate the Agreement by providing thirty (30) calendar days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

XIII. FAILURE TO COMPLY WITH AGREEMENT

In the event that the Town does not carry out the terms of this Programmatic Agreement, the Town will comply with 36 CFR Sections 800.4 through 800.6 with regard to each individual project funded under the Program

EXECUTION AND IMPLEMENTATION of this Programmatic Agreement evidences that the Town has satisfied its Section 106 responsibilities for all individual undertakings funded in whole or in part under the Community Development Block Grant Program.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date _____

The TOWN OF MANCHESTER, CONNECTICUT

By: Timothy P. O'Neil _____ Date 10/1/2005
~~Steven R. Warner, General Manager~~
Timothy P. O'Neil, Acting General Manager

CONNECTICUT STATE HISTORIC PRESERVATION OFFICER

By: [Signature] (OSHPA) _____ Date 7/21/05

APPROVED AS TO FORM:

Timothy P. O'Neil _____ Date 7/11/2005
Tim O'Neil, Town Attorney

ATTACHMENT A

HUD-FUNDED COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM GUIDE FOR LEAD BASED PAINT IN LOW AND MODERATE INCOME HISTORIC HOUSING

This guide is to assist owners undertaking federally funded lead based paint (LBP) removal/management for low and moderate-income housing that is eligible for listing or listed in the National Register of Historic Places, or is contributing to a registered historic district. These buildings must meet minimum historic preservation concerns while maximizing the elimination of high-risk sources of lead.

The preservation/environmental review is generally undertaken by either a Certified Local Government (CLG), or the State Historic Preservation Officer (SHPO) in consultation by the Advisory Council on Historic Preservation (ACHP) if an adverse effect may occur to the historic resource.

This guide uses a three-tiered approach. **TIER I** (preservation/maintenance) will not need to be reviewed; **TIER II** (rehabilitation) will need a 1-day review by the SHPO. **TIER III** (replacement) will require consultation with the SHPO, and possibly the ACHP, and execution of a Standard Mitigation Measures Agreement or Memorandum of Agreement prior to project implementation.

The buildings falling within this guide are low to moderate income housing units or houses that contribute to historic districts listed or eligible for the National Register of Historic Places and which are receiving *limited* Federal funds for lead reduction. Buildings which are individually listed in the National Register generally have a higher level of architectural integrity, and any LBP work must be carefully coordinated with the SHPO. This guide is not for buildings that are undergoing substantial rehabilitation where lead abatement work can be incorporated at a more reasonable cost with other work, and where more historic materials can be preserved. It is not a substitute for comprehensive review for projects receiving Investment tax Credits for historic rehabilitation.

It is the goal of this guide to protect the most significant elements of a historic building that convey its history to the community while providing some relief for high risk elements, such as friction surfaces of windows and painted wooden floors. The following *original/significant* elements must be evaluated.

BUILDING EXTERIORS: Primary elevations (fronts or corner elevations) and their wall surfaces, primary window frames and trim, front and corner cornice treatments, original front doors, porch or other distinctive features.

BUILDING INTERIORS: Entrance vestibules, front staircases, main first floor parlor or living rooms with mantels, front window and door trims and casings, and other significant trim. (Other interior spaces are not subject to review under this program)

TIER I: Preservation Approach (retention/repair/maintenance of materials in good condition. Treatment in this tier focuses on stabilization and removal of flaking lead-based paint. Abatement does not involve the replacement or removal of historic elements.

BUILDING EXTERIOR

PRIMARY WALLS: Remove flaking paint (wet sand, chemical, heat strip) and repaint.

PRIMARY WINDOW SASH: Sand or strip historic sash to remove paint in friction areas and repaint, or replace sash with new sash to match the visual components of the historic sash. Multiple pane configuration (2/2, 6/6) should be replicated with true window muntins; a snap-in grid to simulate historic window is not appropriate. Substitute materials may be used if they closely replicate the historic sash.

PRIMARY WINDOW/DOOR FRAMES: Retain in place, repair, remove flaking paint and repaint, use jamb liners, if appropriate, at friction surfaces.

CORNICE, DECORATIVE MOLDINGS, PORCHES: Repair as required, remove flaking paint and repaint. Porch decks that have been painted may be encapsulated for a new surface.

ORIGINAL FRONT DOOR: Strip and remove paint from friction surfaces, or use jamb liners. If the original door contains excessive glass and cannot be made physically secure, store the door on the property, or replace the glass with a wooden panel, or replace the door with one that matches the panel and detail configuration appropriate to the architectural period of the house. (Two-panel door with glass to Two-panel wooden door).

BUILDING INTERIOR

VESTIBULE: Repair, wet sand and repaint walls, trim and other elements; retain tile or marble floor or wainscot finishes; retain transoms although they may be made inoperable. Repair historic elements as required.

FRONT STAIRCASE AND RISERS: Wet sand and repaint railings; replace broken balusters with matching ones. Treads and risers may be covered with an appropriate rigid underlayment with carpeting or a washable surface such as vinyl tile and rubber stair treads.

FRONT PARLOR/LIVING ROOM: Repair damaged plaster, repaint walls with encapsulant paint if necessary or regular paint if permissible. Retain all decorative elements such as mantels, built-in cupboards, etc...

FRONT WINDOW/DOOR CASINGS/PARLOR DOORS: Wet sand or strip paint as required for wood trim for windows, parlor doors, and the door casings. If there are pocket doors, retain in place, or retract into pockets and make inoperable. Repaint wooden elements with regular paint or special encapsulant paints.

TIER II: Rehabilitation Approach (Substantial Repair/Replacement; substrates in damaged/poor condition). Treatments in this tier require extensive repair and in some cases replacement of historic elements with exact or closely matching materials. Proposals for substantial replacement must be based upon existing conditions and cost analysis.

BUILDING EXTERIOR

PRIMARY WALLS: Substantial repairs, repainting or replacement of materials, such as wooden siding, should closely match the historic.

PRIMARY WINDOW SASH: Replacement sash should closely resemble the historic sash. Vinyl or other materials may be used for simple 1/1 configurations of for casement windows. Snap-in grids are not permissible.

PRIMARY WINDOW/DOOR FRAMES: Replacement should match existing frames and trim and should be compatible with the architectural period of the historic district. Stabilize paint and repaint with regular or encapsulant paint. Use jamb liners when appropriate.

CORNICE, DECORATIVE MOLDINGS, PORCHES: Replacing deteriorated elements, such as the cornice, porch columns, or porch railings should closely match the originals. Painted porch decks may be covered or replaced with a new surface.

ORIGINAL FRONT DOORS: Replacement doors should closely match the existing door or be compatible with the architectural period of the historic (e.g. Victorian). Doors designed to reflect another period of time (Colonial, Modern, etc...) should not be used.

BUILDING INTERIOR

VESTIBULE: Removal of deteriorated decorative elements (tile wainscot, marble flooring, wooden trim) should be identified. Patch existing plaster walls or replace with drywall if necessary and replace trim work in-kind, as appropriate.

FRONT STAIRCASE: Replacement of damaged banister and railing should closely match or be of a residential design, either with turned balusters or with simple square ones.

FRONT PARLOR/LIVING ROOM: Extensive plaster deterioration may be replaced with drywall: historic trim and molding replaced in-kind; and decorative elements, such as mantels, retained.

FRONT WINDOW, DOOR CASINGS, PARLOR DOORS: Repairs or replacements should closely match historic. Parlor doors may be sealed in place to leave a cased opening.

TIER III: Replacement Approach (Replace/remove extremely deteriorated elements). This tier requires a full review by the SHPO and possible consultation by the ACH. It is anticipated, in some cases, that due to extreme deterioration or lead contamination historic elements will be removed and replaced with compatible non-historic elements. The invasive nature of this level shall be substantiated through documentation that evaluates existing conditions and cost estimates for alternative treatments. Consultation with the SHPO and execution of a Standard Mitigation Measures Agreement or Memorandum of Agreement is required prior to project implementation.

BUILDING EXTERIOR

PRIMARY WALLS: Cladding with substitute materials, such as vinyl or aluminum siding cannot be used unless documented that extreme deterioration precludes repair or repainting and costs preclude replacement with in-kind materials.

PRIMARY WINDOW SASH: Replace sash when it does not approximate the pattern or opening site of the original.

PRIMARY WINDOW/DOOR FRAMES: Panning over frames and jack-arch panels with coil stock or rigid enclosures, or removing entirely is not to be used on decorative or distinctive elements unless warranted due to the level of deterioration or lead contamination.

CORNICE AND DECORATIVE ELEMENTS: Covering, boxing in or removing any significant decorative element is not appropriate unless extensive deterioration is justified.

BUILDING INTERIOR

VESTIBULE: Removal of inside door, trim, casings and moldings when replaced. Panning over frames with coil stock is not appropriate.

FRONT STAIRCASE: Removal of the staircase, or creating a separately enclosed staircase, or encasing the historic banister in a solid half wall unless warranted due to the level of deterioration and lead contamination.

FRONT PARLOR/LIVING ROOM: Removal of historic wall finishes and decorative trim and features without replacement.

FRONT WINDOW/DOOR CASINGS, PARLOR DOORS: Removal of trim, jambs, doors and/or casings without replacement due to the level of deterioration and lead contamination.

ATTACHMENT B

STANDARD MITIGATION MEASURES FOR ADVERSE EFFECTS

- A. The Town and Connecticut SHPO may develop and execute an agreement that included one or more of the following Standard Mitigation Measures, as modified by the Connecticut SHPO, for activities covered under Stipulation IV (B) when the SHPO deems it appropriate. The Council will not be a party to these agreements.
1. The Town shall ensure that prior to the initiation of lead abatement activities on the historic property, the historic property is photographically documented in accordance with guidelines established by the Connecticut SHPO. The Connecticut SHPO shall identify an appropriate archive for the deposit of recordation materials and the Town shall be responsible for submitting such materials. The Connecticut SHPO may waive the recordation requirement, as it deems appropriate.
 2. The Town, in consultation with the Connecticut SHPO, shall develop design guidelines for the replacement of deteriorated significant elements of historic properties that are proposed for lead abatement activities. The Town shall adhere to the design guidelines approved by the Connecticut SHPO during the development of project specifications. Final Plans and specifications shall be submitted to the Connecticut SHPO for review and approval.
 3. The Town shall implement the lead abatement project in accordance with the specifications or treatment plans approved by the Connecticut SHPO. The specifications or treatment plan are inconsistent with recommended treatments in Tier III of Attachment A of the Programmatic Agreement, but determined appropriate due to the amount of lead contamination, level of deterioration, or estimated cost of replacement with in-kind or compatible materials.